

DOCKET NO. VTN-632

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James M. Peck et al.

Serial No.: 10/731,258

Group No.: 3728

Filed: December 9, 2003

Examiner:

For: CONTACT LENS PACKAGES CONTAINING ADDITIVES

I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner for Patents, Washington, D.C. 20231 on

9-10-04
(Date of Deposit)

Angelina Pettili
Name of Declarant

Angelina Pettili
(Signature)

9-10-04
(Date of Signature)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.47(a)

Sir:

Applicants hereby petition the Commissioner under 37 CFR 1.47(a) to accept a Declaration and Power of Attorney for the above-identified patent application under 37 C.F.R. 1.63. This document does not contain the signature of one inventor, James M. Peck. The facts that support this petition follow below.

1. James M. Peck was an employee of Johnson & Johnson Vision Care Inc. at the time this invention was conceived. This invention was conceived during the course of his employment at Johnson & Johnson Vision Care Inc. He supplied data and worked with Ruby T. Hope, the filing attorney to draft the provisional application, U.S. Serial no. 60/436,109.

2. As a condition of his employment, Mr. Peck signed an "Employee Secrecy Agreement" with Johnson & Johnson Vision Care Inc. (formerly known as Johnson & Johnson Vision Products Inc., hereinafter "VISTAKON"). This secrecy agreement required that Mr. Peck assign any inventions made during the term of his employment to VISTAKON. In addition the agreement required that Mr. Peck execute any applications,

assignments or other instruments which VISTAKON shall consider necessary to apply for and obtain Letters Patent in the United States. The foregoing obligations continued beyond the termination of his employment. Mr. Peck's employment with VISTAKON ended in December of 2002.

3. Mr. Peck's new employer is Boston Scientific, of Minnesota. He was contacted at his place of business and notified that a non-provisional application was filed. He gave a his new home and work address over the telephone and said that he would sign any required papers. His last known home address is Mallard Ridge Apartments, 13301 Maple Knoll Way, Apt. 1406, Maple Grove MN, 55369.

4. Copies of the application, an unexecuted declaration, and an assignment were sent to Mr. Peck at his home and work address on April 1, 2004 and May 1, 2004 respectively. All of the documents were sent via Express Mail and were delivered to the addresses.

5. Prior to the preparation of this petition, several phone messages were left on Mr. Peck's answering machine requesting that he return the materials. Mr. Peck did not respond to either the mailings or the phone calls.

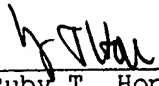
6. The following documents are attached in support of this petition

- a) Employee Secrecy Agreement of James M. Peck,
- b) a copy letter mailed to his last known residence on April 1, 2004 via Express Mail under tracking number EL 96 1542 565 US,
- c) the Express Mail receipt for tracking number EL 96 1542 565 US
- d) the Track & Confirm for EL 96 1542 565 US, noting the that J. Peck signed for the package on April 6, 2004.
- e) a copy letter mailed to his last known place of business on May 28, 2004 via Express Mail under tracking number EL 96 12 7876 757 US,
- f) the Express Mail receipt for tracking number EL 96 12 7876 757 US
- g) the Track & Confirm for EL 96 12 7876 757 US, noting the that S Scimed signed for the package on June 1, 2004, and
- h) a copy of notice of an amendment to the articles of incorporation for Johnson & Johnson Vision Products Inc., noting the name change to Johnson & Johnson Vision Care Inc..
- i) a declaration and power of attorney for U.S. Serial No. 10/731,258, signed by inventors Qiang Zhang, Yufu Li, and Steven C. Arnold.
- j) a declaration and power of attorney for U.S. Serial No. 10/731,258, signed by inventors Dharmesh Dubey and Michael G. Tokarski,
- k) a Notice to File Missing Parts of Nonprovisional Application, and

1) a petition for an extension of the time to reply to the
Notice to File Missing Parts of Nonprovisional Application.

The Commissioner's consideration of the petition is respectfully
requested.

Please charge the petition fee of \$130.00 to Account 10-0750/VTN-
632/RTH and for any additional fee required. A duplicate of this
petition is attached.



Ruby T. Hope
Reg. No.: 34,350
Attorney for Applicant(s)
Assistant Secretary of Johnson &
Johnson Vision Care Inc.

JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
Tel. No.: (732) 524-1024
Date: September 10, 2004



OFFICE OF
GENERAL COUNSEL

Johnson & Johnson

ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, N.J. 08933-7001

April 1, 2004

Mr. James Peck
Mallard Ridge Apartments
13301 Maple Knoll Way
Apt. 1406
Maple Grove, MN 55369

RE: VTN-632
CONTACT LENS PACKAGES CONTAINING ADDITIVES

Dear Mr. Peck:

Enclosed please find a copy of the above-referenced patent application, which was filed with the U.S. Patent Office on December 9, 2003. Also enclosed is the Declaration and Power of Attorney.

An Assignment of the invention to Johnson & Johnson Vision Care Inc. is also enclosed. Please note that the Assignment must be notarized.

Please sign the documents as required and forward the fully executed documents to me for filing in the Patent Office.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Ruby T. Hope

RTH/ap
Encls.

EL 961542565US)

Johnson & Johnson VISION PRODUCTS, INC.

Employee Secrecy Agreement

(Standard Form)



JAMES MALCOLM PECK

(NAME OF EMPLOYEE)

9978 Rough Creek

(RESIDENCE ADDRESS)

Ponte Vedra

(CITY)

Florida

(STATE)

As used in this agreement:

VISTAKON means Vistakon, Johnson & Johnson Vision Products, Inc., its successors or assigns, and any of their existing and future divisions and subsidiaries.

I means the employee whose name appears above, also referred to by its use of first person pronouns, such as me and my.

CONFIDENTIAL INFORMATION means information disclosed to me or known by me as a result of my employment by VISTAKON, not generally known to the trade or industry in which VISTAKON is engaged, about VISTAKON'S products, processes, machines, and services, including research, development, manufacturing, purchasing, finance, data processing, engineering, marketing, merchandising and selling; and corresponding information about the products, processes, machines, and services of VISTAKON'S affiliates, acquired by me during my employment by VISTAKON.

INVENTIONS mean discoveries, improvements, and ideas, whether patentable or not.

I AM EMPLOYED OR DESIRE TO BE EMPLOYED BY VISTAKON IN A CAPACITY IN WHICH I MAY RECEIVE OR CONTRIBUTE TO CONFIDENTIAL INFORMATION.

In consideration of my employment by VISTAKON:

1. I agree to disclose promptly to VISTAKON all INVENTIONS conceived or made by me whether or not during my hours of employment or with the use of VISTAKON'S facilities, materials, or personnel, either solely or jointly with another or others during my employment by VISTAKON, and related to the actual or anticipated business or activities of VISTAKON, or related to its actual or anticipated research and development or suggested by or resulting from any task assigned to me or work performed by me for, or on behalf of, VISTAKON. I assign and agree my entire right, title and interest therein to VISTAKON.

2. I shall, whenever requested to do so by VISTAKON execute any applications, assignments or other instruments which VISTAKON shall consider necessary to apply for and obtain Letters Patent in the United States, or any foreign country, or to protect otherwise VISTAKON'S interests therein. These obligations shall continue beyond the termination of my employment with VISTAKON with respect to INVENTIONS conceived or made by me during my period of employment, and shall be binding upon my assigns, executors, administrators, or other legal representatives.

3. I shall not disclose to VISTAKON or induce VISTAKON to use any secret or confidential information or material belonging to others, including my former employers, if any.

4. Unless I first secure VISTAKON'S written consent, I will not disclose, use, disseminate, lecture upon or publish CONFIDENTIAL INFORMATION of which I become informed during my employment, whether or not developed by me.

5. I will not assert any rights under any INVENTIONS as having been made or acquired by me prior to my being employed by VISTAKON, unless such INVENTIONS are identified on a sheet attached hereto and signed by me as of the date of this agreement.

6. I agree that in the event I am transferred from VISTAKON to Johnson & Johnson or to a Johnson & Johnson subsidiary or affiliate, other than VISTAKON, such transfer shall not operate to terminate or modify this agreement except that the employer corporation to which I am transferred shall be construed for the purpose of this agreement as standing in the same place and stead as "VISTAKON" as of the date of transfer.

7. Upon termination of my employment with VISTAKON, prior to or upon my retirement, I shall turn over to a designated individual



Employee Secrecy Agreement

(With Covenant Against Conflicting Employment)



JAMES M. PECK

(NAME OF EMPLOYEE)

13587 COUNTRY PT. DR.

(RESIDENCE ADDRESS)

JACKSONVILLE

(CITY)

Fla

(STATE)

As used in this agreement:

VISTAKON means Vistakon, Johnson & Johnson Vision Products, Inc., its successors or assigns, and any other subsidiary of Johnson & Johnson, and any ~~or~~ existing and future divisions and subsidiaries.

I means the employee whose name appears above, also referred to by its use of first person pronouns, such as me and my.

CONFIDENTIAL INFORMATION means information disclosed to me or known by me as a result of my employment by VISTAKON, not generally known in the trade industry in which VISTAKON is engaged, about VISTAKON's products, processes, machines, and services, including research, development, manufacturing, purchasing, finance, data processing, engineering, marketing, merchandising and selling; and corresponding information about the products, processes, machines, and services of VISTAKON's affiliates, acquired by me during my employment by VISTAKON.

INVENTIONS mean discoveries, improvements, and ideas, whether patentable or not.

CONFLICTING PRODUCT means any product, process, machine, or service of any person or organization other than VISTAKON in existence or under development which resembles or competes with a product, process, machine, or service upon or with which I shall have worked during my term of employment with VISTAKON, and whose use of marketability could be enhanced by application to it of CONFIDENTIAL INFORMATION to which I shall have had access during my employment.

CONFLICTING ORGANIZATION means any person or organization which is engaged in or about to become engaged in research on or development, production, marketing, or selling of a CONFLICTING PRODUCT.

I AM EMPLOYED OR DESIRE TO BE EMPLOYED BY VISTAKON IN A CAPACITY IN WHICH I MAY RECEIVE OR CONTRIBUTE TO CONFIDENTIAL INFORMATION.

In consideration of my employment by VISTAKON:

1. I agree to disclose promptly to VISTAKON all INVENTIONS conceived or made by me whether or not during my hours of employment or with the use of VISTAKON's facilities, materials, or personnel, either solely or jointly with another or others during my employment by VISTAKON, and related to the actual or anticipated business or activities of VISTAKON, or related to its actual or anticipated research and development or suggested by or resulting from any task assigned to me or work performed by me for, or on behalf of, VISTAKON. I assign and agree my entire right, title and interest therein to VISTAKON.

2. I shall, whenever requested to do so by VISTAKON, execute any applications, assignments or other instruments which VISTAKON shall consider necessary, to apply for and obtain Letters Patent in the United States, or any foreign country, or to protect otherwise VISTAKON's interests. These obligations shall continue beyond the termination of my employment with VISTAKON with respect to INVENTIONS CONCEIVED OR MADE DURING MY PERIOD OF EMPLOYMENT, AND SHALL BE BINDING UPON MY EXECUTORS, ADMINISTRATORS, OR OTHER LEGAL REPRESENTATIVES.

3. I shall not disclose to VISTAKON or induce VISTAKON to use any secret or confidential information or material belonging to other, including former employers if any.

4. Unless I first secure VISTAKON's written consent, I will not disclose, use, disseminate, lecture upon or publish CONFIDENTIAL INFORMATION of which I become informed during my employment, whether or not developed by me.

5. I will not assert any rights under any INVENTIONS as having been made or acquired by me prior to my being employed by VISTAKON, unless such INVENTIONS are identified on a sheet attached hereto and signed by me as of the date of this agreement.

6. I will not render services, directly or indirectly, to any CONFLICTING ORGANIZATION in the United States or Canada, for a period of two (2) years after termination of my employment with VISTAKON, except that I may accept employment with a CONFLICTING ORGANIZATION whose business is diversified and which is, as to that part of its business in which I accept employment, not a CONFLICTING ORGANIZATION, provided VISTAKON, prior to my accepting such employment shall receive separate written assurances satisfactory to VISTAKON from such CONFLICTING ORGANIZATION and from me, that I will not render services, directly or indirectly, in connection with any conflicting product.

7. If I am unable to obtain employment consistent with my training and education, solely because of the provisions of this agreement with respect to employment by a CONFLICTING ORGANIZATION, such prohibition shall bind me only as long as

employed by VISTAKON all property then in my possession or custody and belonging to VISTAKON. I shall not retain any copies or reproductions of correspondence, memoranda, reports, notebooks, drawings, photographs, or other documents relating in any way to the affairs of VISTAKON or to the affairs of its affiliated companies and which are entrusted to me at any time during my employment with VISTAKON.

8. I ACKNOWLEDGE HAVE READ, EXECUTED AND RECEIVED A COPY OF THIS AGREEMENT, and agree that with respect to the subject matter hereof it is my entire agreement with VISTAKON, superseding any previous oral or written communications, representations, understandings, or agreements with VISTAKON or any of its officials or representatives.

This agreement shall be interpreted in accordance with the laws of the State of FLORIDA

Executed this 28th day of JUNE, 19 93

IN THE PRESENCE OF:

WITNESSES
(Must be two)

Merida G. McWhorter
NAME

Vistakon
ADDRESS STREET CITY

Crystal Bennett
NAME

Vistakon, Inc.
ADDRESS STREET CITY

[Signature]
EMPLOYEE'S SIGNATURE



Track & Confirm

Shipment Details

You entered EL96 1542 565U S

Your item was delivered at 8:44 am on April 06, 2004 in OSSEO, MN 55311. The item was signed for by J PECK.

Here is what happened earlier:

- NOTICE LEFT, April 03, 2004, 2:32 pm, OSSEO, MN 55369
- NOTICE LEFT, April 02, 2004, 1:15 pm, OSSEO, MN 55369
- ARRIVAL AT UNIT, April 02, 2004, 9:03 am, OSSEO, MN 55311
- ENROUTE, April 02, 2004, 6:57 am, SAINT PAUL, MN 55111
- ENROUTE, April 01, 2004, 8:41 pm, ZIP Code 07113
- ACCEPTANCE, April 01, 2004, 4:26 pm, HIGHLAND PARK, NJ 08904

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OFFICE OF
GENERAL COUNSEL

Johnson & Johnson

ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, N.J. 08933-7001

ER127876757US)

May 28, 2004

Mr. James Peck
Boston Scientific
One Scimed Place
Maple Grove, MN 55311

RE: VTN-632
CONTACT LENS PACKAGES CONTAINING ADDITIVES

Dear Mr. Peck:


Enclosed please find a copy of the above-referenced patent application, which was filed with the U.S. Patent Office on December 9, 2003. Also enclosed is the Declaration and Power of Attorney.

An Assignment of the invention to Johnson & Johnson Vision Care Inc. is also enclosed. Please note that the Assignment must be notarized.

Please sign the documents as required and forward the fully executed documents to me for filing in the Patent Office.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,


Ruby T. Hope

RTH/ap
Encls.



Track & Confirm

Shipment Details

You entered ER12 7876 757U S

Your item was delivered at 9:32 am on June 01, 2004 in OSSEO, MN 55311. The item was signed for by S SCIMED.

Here is what happened earlier:

- NOTICE LEFT, May 29, 2004, 9:03 am, OSSEO, MN 55311
- ARRIVAL AT PICK-UP-POINT, May 29, 2004, 9:03 am, OSSEO, MN 55311
- ARRIVAL AT UNIT, May 29, 2004, 8:52 am, OSSEO, MN 55311
- ENROUTE, May 29, 2004, 6:53 am, SAINT PAUL, MN 55111
- ENROUTE, May 28, 2004, 8:55 pm, ZIP Code 07113
- ACCEPTANCE, May 28, 2004, 4:29 pm, HIGHLAND PARK, NJ 08904

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CT CORPORATION SYSTEM

800 East Jefferson Street

Tallahassee, FL 32301

Tel. 850 222 1092

Fax 850 222 7615

January 3, 2000

**Ms. Laura Giacino
Johnson & Johnson
1 Johnson & Johnson Plaza
New Brunswick, NJ 08933**

**RE: Johnson & Johnson Vision Products, Inc.
changed name to:
Johnson & Johnson Vision Care, Inc.**

Order #: 2020689

Dear Ms. Giacino:

As instructed, we enclose the following document(s), as issued by the State of Florida:

Evidence of Name Change Amendment filed on 12/30/99

Certified Copy

If you have any questions concerning this order, please contact Florence Mercer in our New York office. Thank you for this opportunity to be of service.

Very truly yours,

CT-Tallahassee

Enclosure(s)

**Via: Federal Express
/cb**



FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State

January 3, 2000

C T CORPORATION SYSTEM
TALLAHASSEE, FL

Re: Document Number 256675

The Articles of Amendment to the Articles of Incorporation for JOHNSON & JOHNSON VISION PRODUCTS, INC. which changed its name to JOHNSON & JOHNSON VISION CARE, INC., a Florida corporation, were filed on December 30, 1999.

The certification requested is enclosed.

Should you have any question regarding this matter, please telephone (850) 487-6050, the Amendment Filing Section.

Thelma Lewis
Corporate Specialist Supervisor
Division of Corporations

Letter Number: 500A00000034

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Amendment, filed on December 30, 1999, to Articles of Incorporation for JOHNSON & JOHNSON VISION PRODUCTS, INC. which changed its name to JOHNSON & JOHNSON VISION CARE, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is 256675.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Third day of January, 2000



CR2EO22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
JOHNSON & JOHNSON VISION PRODUCTS, INC.**

FILED
99 DEC 30 AM 12:36
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provision of section 607.1006, Florida Statutes, this Florida profit corporation adopts the following articles of amendment to its articles of incorporation:

FIRST: The name of the corporation is:

Johnson & Johnson Vision Products, Inc.

SECOND: The Articles of Incorporation of this corporation is amended by changing the Article numbered "FIRST" so that, as amended, said Article shall read as follows:

FIRST: The name of the corporation shall be

Johnson & Johnson Vision Care, Inc.

THIRD: The Amendment to the Articles of Incorporation of the corporation set forth above was adopted on the 15th day of December, 1999.

FOURTH: The amendment was approved by the shareholders. The number of votes cast for the amendment was sufficient for approval.

FIFTH: This amendment will become effective upon filing.

Signed this 17th day of December, 1999.

JOHNSON & JOHNSON VISION PRODUCTS, INC.

By: _____

G. M. Ostrov, Chairman

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